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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the matter of | ) | |
| Implementation of Section 309(j) | ) | PP Docket |
| of the Communications Act | ) | No. 93-253 |
| Competitive Bidding | ) | |

COMMENTS OF
CFW COMMUNICATIONS COMPANY
DENVER AND EPHRATA TELEPHONE AND TELEGRAPH COMPANY
LEXINGTON TELEPHONE COMPANY

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I. Qualification of Designated Entities

1. Telephone Companies -

We suggest consideration of a rural telephone company being classified as a designated entity if it has less than 50,000 access lines. This will provide an opportunity for a number of well qualified rural telephone companies to offer PCS in their service areas. The 50,000 access line criteria is also consistent with the applicable definition of a small telephone company as it relates to the Commission's Section 61.39 tariff filing rules.

The 2,500 inhabitant maximum in the current rural telco/cable cross-ownership rule and proposed increases of this standard to 10,000 inhabitants should not be adapted for use in establishing PCS designated entities. Even the 10,000 inhabitant standard could result in restrictions which are counter-intuitive and counter-productive. For example, it is presumed that each of a telephone company's serving communities (cities, town, or rural county areas) must fall below the threshold in order for the telephone company to be considered a designated entity. (Otherwise, a very large company with only one of many communities falling under the threshold would qualify as a designated entity.) Assume Telephone Company A serves an area inhabited by 25,000 people including 5,000 inhabitants of Town 1, 2,000 inhabitants of Town 2, 3,000 inhabitants of Town 3, and 15,000 inhabitants of a rural county encompassing hundreds of square miles. Excluding Company A from designated entity status on the grounds that it serves a rural locality exceeding 10,000 inhabitants makes no sense. It is doubtful that other entities besides the rural telco would have an interest in serving the rural county area. Other bidders may only have an interest in serving the population centers in the town limits.

The telco/cable cross-ownership rules have no relevance to PCS and continued relevance even to their intended purpose in rural and urban

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areas alike is being questioned and challenged. However, if the Commission prefers using a similar definition based on inhabitants in a community, the threshold should be increased to at least 25,000 inhabitants. This will provide greater assurance that rural customers will receive the benefits of PCS.

2. Small Businesses -

We support the Small Business Administration maximum size standard for the industry as the most logical determinant for this category of designated entities. Using this standard, number of employees for the company and its affiliates relative to other entities in the industry is the determining factor.

The alternative Small Business Administration standard based on a net worth not in excess of $6 million with average net income after federal taxes for the two preceding years of $2.0 million or less is too low for a capital intensive venture like PCS. For example, some analysts estimate the average capital cost per subscriber for PCS to be approximately $500, excluding the license acquisition (bidding) cost. For a typical rural BTA of 100,000 POPs, this would equate to a $16.5 million capital requirement to serve one-third of the population (100,000 x .33 x 500).

Since capital and license acquisition costs may vary significantly across BTAs and are difficult to predict given the limited availability of equipment, a financial standard based on net income and net worth should be dropped in favor of the relative number of employees in the industry. Qualifying firms must be financially viable to be successful.

3. Women and Minorities -

If the FCC decides to have separate preferences for women and minorities, it should require such applicants to prove their status by submitting current certification issued by the state where their business is legally based.

## II. Cellular Carriers

Some entities which might otherwise qualify as designated entities on the basis of their rural telco or small business qualifications may be precluded from bidding on the 20 MHz BTA block "C" because of the eligibility rules for cellular carriers recently adopted by the Commission.

Safeguards regarding cellular eligibility are needed, but rural America should not be harmed by these rules. Many cellular companies affiliated with small rural telcos have built out cellular networks that otherwise would not have been built. The same consideration given to designated entities needs to be given to rural cellular companies. We suggest the FCC allow all cellular carriers with less than 5% of nationwide POPs to bid for any BTA, without any restriction. However, at a minimum, companies that otherwise qualify as designated entities should not be restricted from bidding on a BTA if their cellular interests are below this 5% standard.

Experience has proven that the same rules for urban/metropolitan markets are not fair in rural America. While the two cellular licensees in urban/metropolitan markets have faired well and need additional competition, many rural cellular companies are still trying to make their first dollar. These same entities should not be grouped with the dominant cellular carriers nor should rural areas be grouped with urban America.

## III. Tax Certificates/Installment Payments

We support tax certificates and installment payments to designated entities. We agree with the FCC's proposal to allow all designated entities to pay for the bid amount in installments, with interest at prime plus 1%, and propose that the period of payment equal the term of the license (i.e., ten years).

We also request the FCC to extend these benefits to designated entities that participate in consortium bidding for MTAs and BTAs. In such cases, these benefits should flow through directly to and only to the designated entities in the consortium.

For example, all non-designated entity bidders who include designated entities among their equity participants should be allowed to pay in installments a percentage of their bid amount equal to 100% of their designated entity ownership. To illustrate, assume Company X bids $1,000,000 and is owned 25% by small rural telcos. Company X would be allowed to pay in installments 25% of the price.

## IV. Company Profiles

CFW Communications Company (CFW) is a small company operating in rural western Virginia. CFW owns a rural telephone company that has approximately 30,000 access lines and owns a cellular company that is general partner of one RSA covering three rural counties with a population of less than 200,000. CFW also has a limited interest in another cellular RSA and a MSA. CFW has operated in western Virginia since 1897.

Denver and Ephrata Telephone and Telegraph Company (D&E) provides telephone services in south central Pennsylvania, serving approximately 45,000 access lines. D&E has a limited interest in three cellular partnerships. D&E has been in business since 1911.

Lexington Telephone Company, located in central North Carolina, serves just over 26,600 access lines in Davidson County. LTC is also a limited partner in a cellular company serving the Greensboro, North Carolina MSA. LTC has provided telecommunications services since 1896.

The foregoing comments are filed on behalf of CFW Communications Company, Denver and Ephrata Telephone and Telegraph Company and Lexington Telephone Company by the undersigned attorney.

CFW COMMUNICATIONS COMPANY,
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